



POLICE DEPARTMENT

MEMORANDUM FOR: Police Commissioner

Re: Detective Dannis Deleon
Tax Registry No. 923746
Firearms Suppression Division
Disciplinary Case Nos. 2013-9016 & 2013-10004

The above-named member of the Department appeared before me on March 24 and April 6, 2015, charged with the following:

Disciplinary Case No. 2013-9016

1. Said Detective Dannis Deleon, assigned to the Firearms Suppression Division, on or about and between October 5, 2012 and February 7, 2013, within the confines of the Firearms Suppression Division, did engage in conduct prejudicial to the good order, efficiency or discipline of the Department to wit: said Detective failed to properly investigate and maintain case folders at the Gun Offender Monitoring Unit in a timely fashion. (*As amended*)

P.G. 203-10 Page 1, Paragraph 5 – GENERAL REGULATIONS

2. Said Detective Dannis Deleon, assigned as indicated in Specification No. 1, on or about December 18, 2012, within the confines of the Firearms Suppression Division, did engage in conduct prejudicial to the good order, efficiency or discipline of the Department to wit: said Detective failed to safeguard his Department issued identification card.

P.G. 203-10 Page 1, Paragraph 5 – GENERAL REGULATIONS

Disciplinary Case No. 2013-10004

1. Said Detective Dannis Deleon, assigned to the Firearms Suppression Division, on or about February 4, 2013, at a location known to the Department, did engage in conduct prejudicial to the good order, efficiency or discipline of the Department to wit: said Detective improperly

signed as a witness on an "Acknowledgement of Person Agreeing to Safeguard Firearm" form that indicated that he witnessed the signing of a signature that he did not personally observe.

P.G. 203-10 Page 1, Paragraph 5 – GENERAL REGULATIONS

2. Said Detective Dannis Deleon, assigned as indicated in Specification No. 1, on or about May 16, 2013, at a location known to the Department, in New York County, did wrongfully and without just cause write a letter of recommendation to the NYPD License Division on behalf of an individual who was attempting to obtain a firearms carry permit.

P.G. 203-10 Page 1, Paragraph 6 – GENERAL REGULATIONS

3. Said Detective Dannis Deleon, assigned as indicated in Specification No. 1, on or about May 16, 2013, at a location known to the Department, in New York County, was absent from said assignment without police necessity to wit: said Detective utilized a Department vehicle and conducted personal business while on-duty.

P.G. 203-05 Page 1, Paragraph 2 – PERFORMANCE ON DUTY –
GENERAL REGULATIONS

4. Said Detective Dannis Deleon, assigned as indicated in Specification No. 1, on or about May 16, 2013, at a location known to the Department, in New York County, did fail and neglect to maintain his Activity Log (PD 112-145), to wit: said Detective failed to make entries relating to his movement during his assigned tour.

P.G. 212-08 Page 1, Paragraph 1 – ACTIVITY LOGS-COMMAND OPERATIONS

5. Said Detective Dannis Deleon, assigned as indicated in Specification No. 1, on or about May 16, 2013, at a location known to the Department, in New York County, did engage in conduct prejudicial to the good order, efficiency or discipline of the Department to wit: said Detective while present at 1 Police Plaza failed to scan his NYPD identification card upon exiting Police Headquarters.

P.G. 203-10 Page 1, Para 5 – GENERAL REGULATIONS

The Department was represented by Beth Douglas, Esq. and Jordan Farnham, Esq. Department Advocate's Office, and Respondent was represented by Michael Lacondi, Esq. The Department called Sergeant Wanda Negron and Sergeant Gregory Butler as witnesses. The Respondent called Detective Debra Lawson as a witness and testified on his own behalf. A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review.

DECISION

Respondent Pleaded Guilty to Specification 2 of Disciplinary Case No. 2013-9016 and to Specifications 1, 2, 3, and 4 of Disciplinary Case No. 2013-10004. With regard to the contested Specifications, after evaluating the testimony and evidence presented at the hearing, and assessing the credibility of the witnesses, this tribunal recommends that Respondent be found Guilty in part of Specification 1 of Disciplinary Case No. 2013-9016 and Not Guilty of Specification 5 of Disciplinary Case No. 2013-10004. The Department Advocate has asked for a penalty of thirty vacation days. It is recommended that Respondent receive a penalty of thirty vacation days and one year dismissal probation.

FINDINGS AND ANALYSIS

With regard to Specification 1 of Disciplinary Case No. 2013-9016, it is undisputed that between October 5, 2012 and February 7, 2013, Respondent was assigned to the Gun Offender Monitoring Unit within the Firearms Suppression Unit. His immediate supervisor was Sergeant Wanda Negron. Detective Debra Lawson was also assigned to the Unit and supervised by Negron. (Tr. p. 69). The Respondent's job was to monitor gun offenders who had been convicted of a gun possession charge (Tr. p. 18). A case folder was to be kept for each offender. A DD-5, which is a complaint follow-up informational report, was to be prepared and placed in the file for activity taken on the case and for events such as a subsequent arrest of the offender. (Tr. 24-25, 148-49, 163).

Negron testified that on January 22, 2013, she reviewed offender folders for five of Respondent's cases. In case 02-2008 (Department Exhibit ("DX") 1A) there was no DD5 for the offender's arrest on January 7, 2013. The DD5, dated January 9, 2013, was in the folder when

Negron checked it again on February 4, 2013. In case 25-2008 (DX 1B), there was no DD5 for the offender's arrest on December 26, 2012. The DD5, dated December 27, 2012, was in the folder, with an incorrect arrest date of December 28, 2012, when Negron checked the file again on February 4, 2013. In case 58-2007 (DX 1C), there were no DD5s for the offender's arrest on December 18, 2012 or for his subsequent debriefing. In case 09-2007 (DX 1E), there was no DD5 for the offender's interview with the Gun Monitoring Unit. The DD5, dated December 7, 2012, was in the folder when Negron checked it again on February 7, 2013. For another offender, Negron found a Debriefing Form on Respondent's desk indicating that the offender had been interviewed by Respondent on October 5, 2012. As of January 22, 2013, Respondent had not prepared any case folder containing DD5s for this offender. (Tr. p. 39-40, DX 1D).

Negron testified that she expected DD5s to be placed in the folders within 24 hours of the event which triggered its creation. (Tr. p 25). Negron said she made her expectations known through verbal instructions and a memo. (Tr. pp 22, 29). No documentary evidence of such written guidance was produced at trial. Neither Respondent nor Lawson, the only other Detective in the Unit at the time, remembered receiving any specific guidance about exactly when to place the DD5s in the folders. (Tr. p. 91, 156-157). Respondent testified that he prepared the DD5s in a timely manner but kept them on a thumb drive until he would periodically download them and place them in the folders. (Tr. p. 149).

There is no corroboration for Negron's testimony that she required the DD5s to be placed in the file in 24 hours. However, the purpose of a DD5 is to update the status of a case and to document activity that has taken place with regard to the case. If an offender has been re-arrested or another important event has happened concerning his or her case, the only way anyone picking up the file would know about it is if it has been documented through a DD5 that

has been placed in the file. In this case there was testimony that the two Detectives would routinely work on each other's cases (Tr. p 74). In addition, Negron had to review case files to monitor the work of the unit. Respondent had been a Detective for approximately five years. (Tr. p. 161) Based on his own years of experience, he should have known the importance of being able to pick up a file and have current information in it. While the Department did not present any written guidance on the time within which a DD5 has to be placed in a file, the lag time in this case is not reasonable and thus is untimely. It would not have taken a great amount of time to transfer the DD5s from a thumb drive to a hard copy. As Respondent admitted, he printed out his on-line booking sheet documents from his thumb drive right away. (Tr. p. 169) He could just as easily have printed out his DD5s and placed them in the appropriate folders. Even in a very busy unit, it is not timely to wait weeks to make sure the most current important information is included in an offender's folder. When Negron checked the files on January 22, 2013, there were no DD5s for events which took place between approximately 15 and 35 days prior to that. The file that was missing altogether, (DX 1D), stemmed from events over three months prior to her review. I credit Respondent's testimony that he prepared the DD5s in a timely manner and had them in a thumb drive and therefore is Not Guilty of failing to investigate his cases, however I do find him Guilty of failing to maintain his case folders in a timely manner.

With regard to Specification 5 of Disciplinary Case No. 2013-10004, the Department's proof consisted of the testimony of Butler and the documentation Butler received from Lieutenant Church indicating that no swipe out data was recorded for Respondent on May 16, 2013. (DX2). I do not find that the Department has met its burden of establishing that Respondent failed to scan his ID card upon his exit from One Police Plaza. While there is no record of Respondent scanning out, Respondent testified that while he does not have an

independent recollection of how he left the building that day, he knows he "didn't leave through no secret exit of the building." (Tr. pp. 180-181). There was no motive presented for him not to have scanned out. The Department presented no testimony about the reliability of the scan readers and failed to exclude other possible causes of the scan failing to register Respondent's exit. I therefore find Respondent Not Guilty of Specification 5 of Disciplinary Case No. 2013-10004.

PENALTY

In order to determine an appropriate penalty, Respondent's service record was examined. See *Matter of Pell v. Board of Education*, 34 NY 2d 222 (1974). Respondent was appointed to the Department on July 7, 1999. Information from his personnel file that was considered in making this penalty recommendation is contained in an attached confidential memorandum.

Respondent pled Guilty to what can be seen as the very serious charges concerning the application for a firearm carry permit for his friend. (Specifications 1, 2, 3, and 4 of Disciplinary Case No. 2013-10004). Respondent's explanation for his misconduct regarding these charges is that he had suggested to a good friend of the family that he should apply for a gun license because he was a business owner in an area Respondent felt was unsafe. Respondent testified that at the time he decided to help his friend with the application paperwork and by preparing a recommendation letter, he was not aware that he was prohibited from doing that as a member of the Department. He said he spoke to two people in the License Division, identified himself as an officer, and was told he could bring in his reference letter for the friend. (Tr. pp. 126-129). Respondent also signed the Acknowledgement of Person Agreeing to Safeguard a Firearm form (DX 3) wrongfully indicating that he had witnessed another person sign it. He said he assumed

the woman in question would sign it. (Tr. p. 130). He eventually found out that the woman in fact never signed the form, and that her husband later forged her signature. (Tr. p. 175).

Respondent admitted he made a mistake. (Tr. p. 130).

Respondent is a Police Officer who should know the importance of following the procedures put into place to insure that firearms are only carried and secured by people who have been properly approved to have them. In this case, not only is Respondent a Police Officer, but he is assigned to a Gun Monitoring Unit which is tasked with keeping track of firearm offenders. In fact, Respondent had been assigned to the Firearms Suppression Division since 2006 (Tr. p. 123). Respondent testified that prior to 2012, he had been knowledgeable about the procedures relating to firearms within the New York City Police Department (Tr. p. 125). He said that one of the reasons he went to the Firearms Suppression Division is that he did not believe in the illegal possession of firearms. (Tr. p. 125). And yet, despite having admitted to being knowledgeable about firearms procedures and despite being assigned to a Division tasked with controlling firearms in the city, Respondent lied on one of the forms that is an essential element of the overall program to control firearms – the Agreement to Safeguard a Firearm. He also violated Department policy by writing a recommendation letter for someone to obtain a firearm carry permit. Respondent's misconduct can be seen as thwarting the safeguards put in place to insure proper control of firearms, which is a mission of Respondent's assigned unit.

Respondent's attempts to mitigate these serious violations by claiming that 1) no one told him he could not write the recommendation letter, or 2) that he signed that he witnessed something he actually didn't witness because he made an assumption, are not acceptable mitigating factors in this case. Respondent specifically testified that he was knowledgeable about firearms procedures. In his particular assignment it was imperative that he in fact should

know about firearms procedures. It was, and is, also incumbent upon Respondent to be aware of and comply with the requirements of the Patrol Guide and not just proceed until someone tells him something he is doing is wrong.

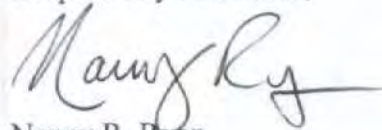
The Department in this case has asked for a forfeiture of 30 vacation days. Respondent has pled Guilty to five separate specifications and been found Guilty in part of a sixth specification. The serious nature of the specifications which have been substantiated call for a greater penalty. Respondent's actions with regard to the firearm application in particular constitute misconduct capable of undermining the very gun control mission Respondent is charged with carrying out. Respondent made false statements on official forms. It is a long standing Department interest that members of the Department maintain the highest level of integrity when preparing critical paperwork—especially as it relates to paperwork involving the general public and firearms. In other cases penalties for falsifying documents have included one year dismissal probation. In *Case No. 78480/02* (Dec. 31, 2003), an eighteen-year member of the service with no prior disciplinary record forfeited 30 vacation days and was placed on one year dismissal probation for official misconduct, which included failing to conduct a proper investigation, leaving the city on official business and use of a private vehicle without proper authorization. The Respondent issued pistol licenses to two persons known to the Department, but failed to conduct or cause to be conducted a proper investigation into the backgrounds of said individuals. The Respondent went to New Jersey to conduct official Department business with said individuals without proper authorization. In the execution of said business outside of the city, the Respondent utilized a private civilian vehicle without proper authorization. In *Case Nos. 85075/09 & 86024/10* (Oct. 5, 2010), a ten-year sergeant with no prior disciplinary record negotiated a penalty of 45 vacation days and was placed on one year dismissal probation for

signing the name of another member of the service on a summons when that other member had not witnessed the violation being committed. In addition, Respondent failed to remain at the scene of a domestic incident and neglected to notify the Department. In *Case No. 86256/10* (Nov. 29, 2010), a twenty-six-year police officer with no prior disciplinary record was dismissed from the Department for submitting an application to the Assistant Commissioner of the Contract Administration Unit with the knowledge that the application contained false information. Respondent, who was on the committee responsible for selecting farms to stable retired Department horses, knew that one of the applications was for a farm that had exaggerated its size. He permitted the application to be considered for and awarded a contract without disclosing to anyone that it contained false information that would have disqualified it. This crime (Offering a False Instrument for Filing in the Second Degree) demonstrated willful deceit and a calculated disregard for honest dealings, indicative of a lack of moral integrity. [PC disapproved a negotiated penalty of 60 penalty days, dismissal probation, and service retirement.] In *Case No. 2012-8447* (Oct. 21, 2013), a five-year police officer with no prior disciplinary record forfeited 30 vacation days, ten suspension days, and was placed on one year dismissal probation after a mitigation hearing for signing an affidavit containing materially false statements and issuing a summons without cause. The affidavit falsely indicated that an underage auxiliary officer ordered and paid for alcoholic beverages in a bar, and the summons was issued to the bar for selling alcohol to a minor under the age of 21. In actuality, it was the officer herself who ordered and paid for the drinks. In *Case No. 9591/13* (Dec. 23, 2013), a fifteen-year police officer with no disciplinary record negotiated a penalty of 45 vacation days and one year dismissal probation for making false statements on Department and court documentation. On the arrestee's arrest report, intoxicated driver examination report and

criminal court affidavit, Respondent indicated that he observed the arrestee driving the vehicle when in fact he did not. In addition, he took a turnover arrest without the permission of a supervisor. In *Case No. 2014-12319* (Feb. 27, 2015), a twelve-year police officer with no prior disciplinary record negotiated a penalty of 30 vacation days and one year dismissal probation for making false entries in Department records by misrepresenting the number of parking violations and moving violations he issued on his monthly activity reports. Respondent indicated that he had issued 123 parking violations and 39 moving violations, when in fact he issued only 22 parking violations and 5 moving violations. Respondent also reported performing 4 hours of overtime for "summons activity" when, in fact, there was no record of summonses issued by Respondent during those hours.

Based on the foregoing, it is recommended that Respondent be DISMISSED from the New York City Police Department; however, this penalty of dismissal will be held in abeyance pursuant to Section 14-115(d) of the NYC Administrative Code for a period of one year, during which time he will remain on the force at the Police Commissioner's discretion and may be terminated at any time without a further hearing. It is further recommended that Respondent forfeit 30 vacation days.

Respectfully submitted,



Nancy R. Ryan
Assistant Deputy Commissioner – Trials

APPROVED

NOV 19 2015

WILLIAM J. BRATTON
POLICE COMMISSIONER

POLICE DEPARTMENT
CITY OF NEW YORK

From: Assistant Deputy Commissioner Trials
To: Police Commissioner
Subject: CONFIDENTIAL MEMORANDUM
DETECTIVE DANNIS DELEON
TAX REGISTRY NO. 923746
DISCIPLINARY CASE NOS. 2013-9016 & 2013-10004

Respondent's last three annual performance evaluations were as follows: he received an overall rating of 4.0 "Highly Competent" in 2014, a 3.5 "Highly Competent/Competent" in 2013, and a 4.5 "Highly/Extremely Competent" in 2012. ■

■ He has been awarded one medal for Excellent Police Duty, four for Meritorious Police Duty, and one Commendation.

He was the subject of one prior adjudication but he was found Not Guilty ■
He has no other formal disciplinary record.

For your consideration.



Nancy R. Ryan
Assistant Deputy Commissioner – Trials